# State of Hawaii Department of the Attorney General



### 2007 Annual Report

## RECOMMENDATIONS FOR DENIAL OF CLAIMS FOR LEGISLATIVE RELIEF

Submitted to
The Twenty-Fourth State Legislature
Regular Session of 2008

#### AUTHORITY AND BACKGROUND

Section 37-77, Hawaii Revised Statutes, requires the Attorney General to report annually to the Legislature on the claims for which a recommendation for denial is made. This reporting requirement is contrasted with the Attorney General's obligation under the same statutory authority to submit a bill to the Legislature that contains all of the claims for which payment is recommended.

A listing and summary of each claim are provided in the report section below. All of the claims this year are filed by Department of Education (DOE) employees, either teachers or other school staff. All of the claims involve damage to or theft of employee property. The majority of the claims are for vandalism to employee vehicles parked on school property. In every case, DOE officials have recommended that the claims be denied because of the absence of DOE negligence. The Attorney General's recommendation for denying these claims is based on a determination that no state employee negligence has been found.

There are no strong policy reasons for the Legislature to appropriate funds to pay these claims. State employees, like other individuals, usually have, or may obtain, insurance to cover the risks involved. Absent compelling policy justification, state liability for damages should only attach where the negligence of a state employee has been established.

As required by section 37-77, Hawaii Revised Statutes, the data and documents supporting the claims below are maintained in the Tort Litigation Division, Department of the Attorney General, and are available for inspection by the Legislature.

#### SUMMARY OF CLAIMS DURING 2007 FOR WHICH DENIAL IS RECOMMENDED

Claimant: Marlyn Akiona Amount Claimed: \$500.00

Ms. Akiona, a school counselor at Waiakea High Shool, claims damages to her car because it was "keyed" while parked at her school parking lot.

Claimant: Randall Ayabe Amount Claimed: \$4,245.00

Mr. Ayabe, a school teacher at Helemano Elementary School, claims his car was stolen from the school parking lot and later recovered abandoned and burned.

Claimant: Jason Edward Givens Amount Claimed: \$300.00

Mr. Givens, a school teacher at Kahuku High School, claims damages to his truck's windshield while his truck was parked in the school parking lot.

Claimant: Charles J. Hess Amount Claimed: \$359.93

Mr. Hess, a school teacher at Kailua Intermediate School, claims damages to his truck's windshield while his truck was parked in the school parking lot.

Claimant: Evelyn Ibonia Amount Claimed: \$435.95

Ms. Ibonia, a school teacher at Maui High School, claims damages to his car's windshield while his car was parked in the school parking lot.

Claimant: John Stuart Amount Claimed: \$364,31

Mr. Stuart, a substitute teacher at McKinley High School, claims damages to his car's windshield while his car was parked in the school parking lot.

Claimant: Rick Thomas Amount Claimed: \$1,392.49

Mr. Thomas, a school teacher at Aliamanu Middle School, claims damages to his car while the car was parked in the school parking lot.